

032604

23026 U.S. PTO

Patent  
Attorney Docket No. 021565-15517302 US PTO  
17302 US PTO  
032604

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR FILING CONTINUATION/DIVISIONAL  
APPLICATION UNDER 37 C.F.R. § 1.53(b)

## Mail Stop PATENT APPLICATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Customer Number 21839

Sir:

This is a request for filing a  continuation  divisional application under 37 C.F.R. § 1.53(b) of the following pending application, by the following named inventor(s):

Application No. 09/661,016      Filed: September 13, 2000

Title: Recombinant Plant Expressing Non-competitively Binding Bt Insecticidal Crystal Proteins

Inventor(s): Herman VAN MELLAERT et al.

The entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

This application is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. § 1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application.

This application is being filed by more than all the inventors named in the prior application. In accordance with 37 C.F.R. § 1.63(d)(5), a new oath or declaration is enclosed, and the Commissioner is requested to add the name(s) of the following person or persons who are inventors of the invention being claimed in this application.

Applicant(s) suggests Figure \_\_\_\_\_ for inclusion on the front page of the patent application publication and patent.

Applicant(s) requests that the published application include the following assignment information:  
Bayer BioScience N.V.

1.  Enclosed is a copy of the prior Application No. 09/661,016 as originally filed on September 13, 2000, including copies of the specification, claims, drawings and the executed oath or declaration as filed.
2.  Enclosed is a revised prior application and a copy of the prior executed oath or declaration as filed. No new matter has been added to the revised application.
3.  Small entity status is hereby claimed.
4.  The filing fee is calculated below  and in accordance with the enclosed preliminary amendment.

CLAIMS					
	No. of Claims		Extra Claims	Rate	Fee
Basic Application Fee (1001)					\$ 770.00
Total Claims	13	MINUS 20 =	0	x \$18.00 (1202) =	\$ 0.00
Independent Claims	1	MINUS 3 =	0	x \$86.00 (1201) =	\$ 0.00
If multiple dependent claims are presented, add	\$290.00 (1203)				
Total Application Fee					\$ 770.00
<input type="checkbox"/> Small Entity Status claimed - subtract 50% of Total Application Fee					\$ 0.00
Add Assignment Recording Fee of \$40.00 (8021) if Assignment document is enclosed.					
<b>TOTAL APPLICATION FEE DUE</b>					<b>\$ 770.00</b>

5.  This application is being filed without a filing fee. Issuance of a Notice to File Missing Parts of Application is respectfully requested.
6.  Charge \_\_\_\_\_ to Deposit Account No. 02-4800 for the fee due.
7.  A check in the amount of \$ 770.00 is enclosed for the fee due.
8.  Payment by credit card. Form PTO-2038 is attached.
9.  The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.
10.  Cancel in this application original claims 1-19 of the prior application before calculating the filing fee.
11.  New drawings are enclosed.
12.  Applicant(s) claims priority under 35 U.S.C. § 119 of the following application(s):

Country	Application No.	Filing Date MM-DD-YYYY
United Kingdom	89401499.2	31-05-1989
PCT	PCT/EP90/00905	30-05-1990

The certified copy of the priority application  
 is enclosed.  
 was filed on January 22, 1991 in prior Application No. 07/640,400, filed on February 28, 1997 in Paper No. 6.  
 has not yet been filed.

13.  A preliminary amendment is enclosed.

14.  An Information Disclosure Statement is enclosed.

15.  A General Authorization for Payment of Fees and Petitions for Extensions of Time is enclosed.

16.  Also enclosed is a Request for Transfer of Computer Readable Sequence Listing From Another Application to the Present Application w/attachments

17.  The power of attorney in the prior application is to R. Danny Huntington, Reg. No. 27, 903

a.  The power appears in the original papers in the prior application.  
b.  Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.  
c.  Recognize as Associate Attorney Malcolm K. McGowan, Ph.D.  
d.  Address all future communications to: (May only be completed by applicant, or attorney or agent of record.)  
Burns, Doane, Swecker & Mathis, L.L.P.  
Customer Number **21839**  
P.O. Box 1404  
Alexandria, Virginia 22313-1404

March 26, 2004

Date

By:

  
Malcolm K. McGowan, Ph.D.

Registration No. 39,300

Address of signator:

Burns, Doane, Swecker & Mathis, L.L.P.  
P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

inventor(s)  
 assignee of complete interest  
 attorney or agent of record  
 filed under 37 C.F.R. § 1.34(a)

Patent  
Attorney's Docket No. 021565-078

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of )  
 )  
Herman VAN MELLAERT ET AL. ) Group Art Unit: 1638  
 )  
Application No.: 09/661,016 ) Examiner: Anne R. Kubelik  
 )  
Filed: September 13, 2000 ) Confirmation No. 1768  
 )  
For: RECOMBINANT PLANT EXPRESSING )  
NON-COMPETITIVELY BINDING Bt )  
INSECTICIDAL CRYSTAL PROTEINS )

**SECOND SUBSTITUTE SEQUENCE LISTING/AMENDMENT TRANSMITTAL LETTER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed please find an Amendment and the following:

A copy of a substitute "Sequence Listing" in computer readable form in compliance with 37 C.F.R. §§1.823(b) and 1.824.

A statement that the content of the paper and computer readable copies are the same as set forth in 37 C.F.R. §1.821(f).

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment to Deposit Account No. 02-4800 A duplicate copy of this paper is enclosed.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: September 26, 2003

By: Malcolm K. McGowan  
Malcolm K. McGowan, Ph.D.  
Registration No. 39,300

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